



Bureau of HIV and STD Prevention

HIV/STD Clinical Resources Division
HIV/STD Epidemiology Division
HIV/STD Health Resources Division

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HIV/STD Policy No. 090.020

MODEL POLICIES FOR HANDLING, CARING AND TREATING PERSONS INFECTED WITH A SEXUALLY TRANSMITTED DISEASE (INCLUDING HIV/AIDS) WHILE IN THE CUSTODY, SUPERVISION OR CARE OF CORRECTIONAL, LAW ENFORCEMENT, AND/OR EMERGENCY SERVICES ENTITIES

PURPOSE

The purpose of this policy is to briefly outline various laws, rules, and guidelines as well as model policies developed by the Texas Department of Health (TDH), which affect entities such as correctional facilities, law enforcement agencies, fire departments, emergency medical service providers, and district probation departments that may be responsible for the custody and/or supervision of HIV/AIDS infected persons. The policy outlines the extent to which TDH will work with affected entities in the adoption of the model policies and guidelines and provides information on how these entities may obtain copies of the model policies and guidelines.

AUTHORITY

Health and Safety Code §81.042, §81.041, §81.044, §81.048, §81.050, §81.051, §81.102, §81.107, §81.109, §§81.301-81.304 §85.003, §§85.141-85.143 and §97.144; Government Code, §501.054, §507.023, Criminal Procedure Code Art. 21.31, Art. 46A.01, Art. 56.02, Article 5115d, Revised, Article 5115e, Revised Statutes; U.S. Department of Health and Human Services *Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers*; current version of the *TDH Infection Control Manual for Public Health Clinics*, *TDH Minimum Standards for Clinical Services for HIV/AIDS Projects*.

BACKGROUND

Correctional facilities, law enforcement agencies, fire departments, emergency medical providers and district probation departments are directed by law to adopt policies to facilitate the handling, care, and treatment of HIV/AIDS infected persons in their custody or under their supervision. The TDH is directed by Health and Safety Code §85.141 to develop model policies based on state law and accepted clinical standards to assist the affected entities as they develop their own policies and/or procedures to care for HIV infected individuals. The TDH Bureau of HIV and STD Prevention (Bureau) is designated as the primary resource in the state for HIV/AIDS prevention and is charged with the development of model policies and guidelines regarding HIV/AIDS and STD treatment and prevention.

WHO MUST USE THE MODEL POLICIES

State or local entities

State law (HSC §85.142) requires the use of these policies by correctional facilities, law enforcement agencies, fire departments, emergency medical service providers and district probation departments who may be responsible for the custody, care and supervision of persons who are HIV/AIDS infected. This policy directly affects designated state agencies and their contractors including the Texas Commission on Alcohol and Drug Abuse, the Texas Rehabilitation Commission, the Texas Youth Commission, the Texas Department of Criminal Justice, and the Texas Juvenile Probation Commission.

DEVELOPMENT OF POLICY CONTENT

The TDH has determined the following subsections to be the core components from which correctional and law enforcement agencies, fire departments, and emergency medical service providers may further develop comprehensive HIV/AIDS policies specific to their facilities.

Model Education Program Used to Educate Employees About the HIV Disease and Its Progressive Stages

HSC §85.111 provides direction for the education of state employees and requires the dissemination of an educational pamphlet each year. Furthermore, each entity affected by this policy, according to Government Code §501.054 and §506.023, must conduct and document that educational programs are provided to employees at least once each calendar year. Training must include infection control procedures.

HIV/STD Policy No. 035.001 provides elementary guidelines for developing and implementing a human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) employee education program. The program focuses on the behavior and activities of employees at work and the impact the disease has on employees. However, employers are urged to consider program content that includes behaviors and activities away from work that may expose an employee to the disease and affect work life. Upon request the Bureau will provide the latest medical information available on AIDS and HIV.

Education programs for inmates of the Texas Department of Criminal Justice (TDCJ)

Texas Statutes (Government Code §501.054 and §507.023) and each agency cited in HSC §85.113 must provide required education for inmates dealing with issues relevant to HIV/AIDS during confinement and after release from a correctional facility. The information must be based on cultural and other differences. In addition, the information must be presented in a manner to ensure that the inmate comprehends the materials. Therefore, the information must be provided in English or another language, sign, Braille, telecommunications devices for the deaf, or vernacular, and/or it must be

presented using appropriate teaching methods aimed at low literacy or impaired skills (See also HSC §85.114).

HIV/AIDS model workplace guidelines for state agencies, and state contractors

TDH encourages all state agencies and their contractors to establish workplace policies concerning persons with HIV/AIDS. HIV/STD Policy No. 020.006 provides a uniform approach to developing policies and education programs that address HIV/AIDS in the workplace. "HIV/AIDS Model Workplace Guidelines for Business, State Agencies, and State Contractors"; and adopted as HIV/STD Policy No. 020.006, are considered the minimum standards for the development of guidelines for state agencies and their contractors. These guidelines are the standard for health care facilities licensed by TDH as stated in HSC §85.113, "Workplace Guidelines for State Contractors." Employers may adapt this model to fit the particular needs of their organization and work force. However, the content and intent must remain consistent with the model guidelines and the Texas Health and Safety Code.

HSC §§81.301-81.304 relating to the development of minimum standards for a Bloodborne Pathogen Exposure Control Plan must also be adopted by applicable entities whose employees may be exposed to such pathogens in the course of doing their work as outlined in that section. The components of this plan are outlined in Section 96 of the Health and Safety Code.

Prevention activities provided to state agencies by contractors of the Bureau

HIV/STD Policy No. 110.002 and 110.003 establish the extent of HIV and sexually transmitted disease (STD) prevention activities in which the Bureau and its contractors will participate with other state agencies and their contractors. Other prevention activities may be provided through a Memorandum of Understanding between the Bureau, its contractors and the affected entities. Collaborative efforts to address the HIV/AIDS disease in correctional facilities are required as outlined in 37 TAC, §157.49 (6).

Standard precautions preventing the spread of HIV

HIV/STD Policy No. 800.001 supports the implementation of infection control measures and the use of standard precautions needed to help prevent the spread of communicable diseases including HIV/AIDS. In that policy the Bureau adopted the procedures in U.S. Department of Health and Human Services *Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers* and the most current version of the *TDH Infection Control Manual for Public Health Clinics* as the methods of maintaining standard clinical precautions. The standard precautions should be followed when providing services to persons whose immune system may be compromised due to HIV infection. These persons are at greater risk of infections by communicable diseases such as tuberculosis or Hepatitis B than the general population.

1 In addition, facilities are to comply with 25 TAC Chapter 96, Bloodborne Pathogen
2 Control which includes policies relating to occupational exposure to bloodborne
3 pathogens, training and educational requirements for employees, measures to increase
4 vaccinations of employees, and increased use of personal protective equipment.

5 6 Clinical practice guidelines for persons with HIV disease

7
8 Clinicians providing care and services to persons with HIV disease should follow
9 treatment guidelines from nationally recognized experts. These guidelines are available
10 by contacting HIV/AIDS Treatment Service at www.hivatis.org or by calling 1-800-448-
11 0440.

12 13 Required reporting

14
15 Section 81.042 of the Health and Safety Code requires an administrator or health official
16 of a penal or correctional institution to report a suspected case of a reportable disease,
17 including HIV/AIDS and all information known concerning the person who has, or is
18 suspected of having, the disease. This report is to be made to the local health authority
19 or the TDH.

20 21 Confidentiality

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23 Information pertaining to the HIV/AIDS status of an individual is confidential and is not
24 considered a public record that may be obtained upon request. This information is
25 considered to be a medical record. As such the transmission or sharing of this
26 information must be accomplished in a manner that does not jeopardize or compromise
27 confidentiality. State agencies are directed in HSC §85.115 to develop and implement
28 guidelines regarding confidentiality of AIDS and HIV-related medical information for
29 employees, clients, inmates, patients and residents served by an agency. These
30 guidelines are to be consistent with guidelines published by the TDH as well as with
31 state and federal law and regulations.

32
33 The Bureau has developed two policies dealing with the methods confidential
34 information may be shared with appropriate entities to afford the greatest security for
35 that information. The two policies are HIV/STD Policy No. 040.001 that discusses
36 handling and transmitting confidential information and the other is HIV/STD Policy No.
37 550.001 that outlines the requirements for transmitting confidential medical information
38 by Bureau contractors. (Also see TAC §97.146) Affected entities may review these
39 policies to determine if portions of the policies may be used in their own jurisdiction.

40
41 Texas Administrative Code 163.41 also provides direction in dealing with confidentiality
42 issues.

HIV serological testing

- Informed and general consent HIV/AIDS testing in county and municipal jails

Except as otherwise provided by law, a person may not perform a test designed to identify HIV or its antigen or antibody without first obtaining the informed consent of the person to be tested. The medical record of the individual to be tested must contain documentation that the test has been explained and the consent has been obtained.

When a person has a signed and current general consent form allowing medical tests or procedures in effect, that person is not required to sign another form for tests or procedures to determine HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. Unless otherwise provided by law, the result of a test or procedure may be used only for diagnostic or other purposes directly related to medical treatment.

- Testing pregnant women for HIV/AIDS

State law defines the requirements and timing for testing of a pregnant woman for, among other things, HIV/AIDS. The requirement pertains to the first examination of the woman and at the delivery of the child. The requirement applies to every physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of the child. The institution or jail must comply with this law as it pertains to HIV/AIDS when dealing with an incarcerated, pregnant woman. More information may be found in HIV/STD Policy No. 120.100 and TAC §97.135.

- Institutional or jail testing

An inmate confined in a facility operated by the Texas Department of Corrections Institutional and Jail Divisions may be tested for HIV/AIDS. An inmate having a positive test result may be segregated from other inmates according to the Government Code §501.054 and §507.023. Policies developed by affected entities shall assure that mandatory testing of persons in custody is based on the judgment of the attending/admitting physician or health authority or when ordered by the court.

- HIV/AIDS testing in county and municipal jails

A county or municipality may test an inmate confined in the county or municipal jail or in a contract facility to determine the proper medical treatment of the inmate or the proper social management of the inmate or other inmates in the jail or facility. The county or municipality may segregate an inmate that has a positive test result for HIV/AIDS (Criminal Procedure Code, Art. 46A.01). Neither the county nor the municipality has the duty to test for HIV/AIDS.

1 Mandatory testing of persons suspected of exposing certain other persons to
 2 reportable diseases, including HIV infection

3
 4 A paid or voluntary law enforcement officer, fire fighter, emergency medical
 5 service employee or paramedic, or a correctional officer may request that the
 6 TDH or a health authority order testing of another person for HIV infection. The
 7 affected individual, under HSC §81.050, may make such a request only if the
 8 individual believes that such exposure to HIV infection occurred while caring for
 9 another person while in the course of employment or volunteer service. The
 10 request for testing must be sent to the TDH or a health authority with an affidavit
 11 that outlines the reason for the request.
 12

13 A qualified TDH designee will determine if the request meets the criteria of the
 14 United States Public Health Service which determines what activities pose a risk
 15 of infection. When the request is approved, the TDH designee will issue
 16 confidential written notice of the order to the person to be tested and provide
 17 other information regarding the rights of the person to be tested.
 18

19 Once the testing is completed, the TDH designee notifies the person who
 20 requested the test of the results and provides any follow up to that person and
 21 the person who was tested if the test is positive.
 22

- 23 • Counseling required for positive test results

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 25 A positive test result may not be revealed to the person tested without giving that
 26 person the immediate opportunity for individual, face-to-face post-test counseling
 27 to include:

- 28 1. the meaning of the test result;
- 29 2. the possible need for additional confirmatory testing;
- 30 3. measures to prevent the transmission of HIV and change behavior
 31 conducive to HIV transmission;
- 32 4. the benefits of partner notification, and
- 33 5. the availability and use of partner notification programs.
 34

- 35 • Partner notification

36
 37 A health care professional is required to inform a partner notification program
 38 when the health care professional knows the HIV positive status of a patient and
 39 the health care professional has actual knowledge of possible transmission of
 40 HIV to a third party. Therefore, when a person who is HIV infected voluntarily
 41 discloses the name of a partner, the health care professional in an institutional or
 42 jail setting must inform the local health authority. Inform the patient that notifying
 43 the local health authority is not negotiable, but assure the patient that partner
 44 names may be used only for field investigation and notification and that the name
 45 of the HIV positive person will not be disclosed.
 46

The local healthy authority must notify the partner of an HIV infected person whether the person with HIV infection does or does not consent to the notification. The entity authorized to provide partner notification may not disclose the name (or other identifying information) of the person who gave the partner's name or the date or period of the partner's exposure.

BUREAU RESPONSIBILITIES

The Bureau will not be responsible for the direct delivery of HIV/AIDS prevention activities to correctional facilities, law enforcement agencies, fire departments, emergency medical services providers or district probation offices unless specified to do so by law or through memorandums of understanding with such entities. The Bureau will review these policies as necessary with representatives from the affected entities to ensure that they contain up-to-date information.

CONTACTING THE BUREAU FOR INFORMATION

The model policies are available by calling the Bureau's Health Resources Division, Training and Public Education Branch at (512) 490-2535.

OTHER RESOURCES

Texas hotlines

Texas AIDSLINE	1-800-299-AIDS (2437)
Information SIDA	1-800-299-AIDS (2437)
TDD (for hearing challenged)	1-800-252-8012

Bureau of HIV and STD Prevention website

The Bureau's website is available at www.tdh.state.tx.us/hivstd/. Click on Community Services to access the Texas HIV/STD Community Resource Directory. That directory contains numerous local, state and federal hotline numbers and resources with current addresses and phone numbers. In addition, all policies which are referred to in this policy are available at that website under Program Policies.

National contacts

CDC National Prevention Information Network (NPIN)
 P.O. Box 6003
 Rockville, MD 20849-6003
 Bulk Publications available by calling 1-800-458-5231
 Fax No. 1-888-282-7681
 email info@cdcnpin.org

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